

*Legal Supplement Part A to the "Trinidad and Tobago Gazette", Vol. 43,
No. 20, 5th February, 2004*

**Second Session Eighth Parliament Republic of Trinidad
and Tobago**



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 3 of 2004

[L.S.]

AN ACT to amend the Firearms Act, Chap. 16:01

[Assented to 30th January, 2004]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

1. This Act may be cited as the Short title
Firearms (Amendment) Act, 2004.

Commencement

2. This Act shall come into operation on such day as is fixed by the President by Proclamation and different sections may be proclaimed on different days accordingly.

Interpretation
Chap. 16:01

3. Section 2 of the Firearms Act (hereinafter referred to as “the Act”) is amended by inserting in the appropriate alphabetical sequence the following new definitions:

“competent authority” means the Commissioner of Police, the Comptroller of Customs and Excise, the Chief Immigration Officer or the Chief of Defence Staff;

“controlled delivery” means the technique of allowing illicit or suspect consignments of firearms, ammunition and other related materials to pass out of, through, or into the territory of one or more states, with the knowledge and under the supervision of the competent authorities, with a view to identifying persons involved in the commission of offences under this Act;

“public place” means any place to which at the material time the public has access;”.

Section 6 amended

4. Section 6 of the Act is amended as follows:

(a) in subsection (3)(b)(i), by deleting the words “twenty” and “five” and substituting the words “fifty” and “ten” respectively;

(b) in subsection (4)(a), by deleting the words “ten” and “five” and substituting the words “fifty” and “ten” respectively;

(c) in subsection (4)(b)(i), by deleting the words “twenty-five” and “seven” and substituting the words “fifty” and “ten” respectively; and

(d) in subsection (4)(b)(ii), by deleting the word “fifteen” and substituting the word “twenty”.

5. Section 7(1) of the Act is amended—

Section 7 amended

(a) by inserting immediately after paragraph (a), the following new paragraph:

“(aa) the Director, Trinidad and Tobago Forensic Science Centre and any scientific officer of the Centre (as) (are) designated by him acting in their capacity as such;”;

(b) in paragraph (h), by deleting the word “thirty” and substituting the word “fifteen”; and

(c) by inserting after paragraph (j), the following new paragraph:

“(ja) the curator of the Chaguaramas Military History and Aerospace Museum and the curator of the Museum established under the National Museum and Art Gallery Act, in respect of the firearms listed in the Schedule;” .

Act No. 5 of
2000**6. Section 8 of the Act is amended by—**

Section 8 amended

(a) inserting after the words “as such” the words “or person in possession of a Firearm User’s Licence”; and

(b) deleting the words “four” and “two” and substituting the words “twenty-five” and “five” respectively.

7. Section 9 of the Act is amended—

Section 9 amended

(a) in subsection (1)—

(i) in paragraph (a), by deleting the words “four thousand dollars or imprisonment for two years” and substituting the words “fifty thousand dollars or imprisonment for five years”;

- (ii) in paragraph (b), by deleting the word “five” and substituting the word “ten”; and
- (b) in subsection (2), by—
 - (i) deleting the words “four” and “two” and substituting the words “twenty-five” and “seven” respectively;
 - (ii) inserting the words “purchase or acquire from” after the word “who” occurring in line 2;
- (c) section 9, subsection 2 is amended by deleting the word “eighteen” and substituting the word “twenty-five”.

Section 11 amended

8. Section 11(1) of the Act is deleted and the following new subsection substituted:

“Restrictions relating to the discharge of firearms, etc.

11. (1) A person who discharges a firearm or ammunition on or within forty metres of any public road or in any public place is liable on summary conviction to a fine of ten thousand dollars, except where he does so—

- (a) in the lawful protection of his person or property or of the person or property of some other person;
- (b) under the direction of some civil or military authority authorized to give such direction;
- (c) with the written permission of the Commissioner; or
- (d) as the holder of a provisional licence, issued by the Commissioner under section 16 and he discharges the firearm or ammunition on the shooting range named and for the purposes specified in the licence.”.

9. Section 12 of the Act is amended in subsection (1), Section 12 amended by deleting the word “ten” and substituting the word “life”.

10. The Act is amended by inserting after section 13, the following new sections:

“Trespassing with a firearm 13A. (1) A person who while he has a firearm with him, enters or is in any building or part of a building or any land as a trespasser without reasonable excuse, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for two years.

(2) The onus of proving reasonable excuse shall be on the accused.

Possession of firearm whilst under the influence of dangerous drugs 13B. A person commits an offence if he has a firearm with him while he is drunk or under the influence of a dangerous drug within the meaning of the Dangerous Drugs Act, 1991 and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for two years.”.

11. Section 15 of the Act is amended—

Section 15 amended

(a) in subsection (1), by inserting after the word “manufacture” the words “or assemble”;

(b) in subsection (3)—

- (i) in paragraph (b)(i), by deleting the words “ten” and “five” and substituting the words “fifty” and “ten” respectively;
- (ii) in paragraph (b)(ii), by deleting the word “ten” and substituting the word “twenty”;
- (iii) in paragraph (c)(i), by deleting the words “ten” and “five” and substituting the words “fifty” and “ten” respectively;

- (iv) in paragraph (c)(ii), by deleting the word “ten” and substituting the word “fifteen”;
- (v) in paragraph (d)(i), by deleting the words “twenty” and “five” and substituting the words “fifty” and “ten” respectively; and
- (vi) in paragraph (d)(ii), by deleting the word “fifteen” and substituting the word “twenty”.

Section 15A inserted **12.** The Act is amended by deleting section 16 and substituting the following:

<sup>“Provisional
licence</sup> **16.** (1) Where a person intends to obtain a Firearm User’s Licence for the first time, he shall prior to the grant of such a licence obtain a provisional licence from the Commissioner authorizing him to discharge a firearm for the purpose of training in the use of such firearm.

(2) An application for a provisional licence shall—

- (a) be addressed to the Commissioner;
- (b) be made in the prescribed form;
- (c) contain the prescribed particulars;
- (d) be accompanied by the prescribed number of photographs of the person to whom the licence, certificate or permit is desired to be granted;
- (e) be accompanied by a certificate of good character issued by the Commissioner not less than three months prior to the date of application;
- (f) carry a specimen of the signature of the person to whom the licence is to be granted;

- (g) be signed by the applicant;
- (h) be accompanied by such other documents, as may be prescribed by Regulations made by the Commissioner with the approval of the Minister subject to a negative resolution of Parliament.

(3) A provisional licence issued by the Commissioner under subsection (1), shall authorize the holder to discharge a firearm only for the purpose of training in the use of the firearm and shall be restricted to a shooting range to be named in the licence.

(4) Where a provisional licence is issued under subsection (1), the holder of such a licence shall not discharge a firearm unless he is under the supervision of the holder of a Firearm User's Licence.

(5) A provisional licence issued under subsection (1) shall be valid for two months.

(6) Regulations made under subsection 2(h), shall be published in the *Gazette*.”

13. The Act is amended by inserting after section 16, New section 16A inserted the following new section:

“Application for Firearm User's Licence 16A. Upon the expiration of the period referred to in section 16(5) the person who held the provisional licence may apply for a Firearm User's Licence, and such application shall be accompanied by a certificate of competence issued by a licensed firearms instructor.”.

14. Section 17 of the Act is amended—

Section 17 amended

(a) by inserting after subsection (2), the following new subsection:

“ (2A) No licence, certificate or permit shall be granted to a person under the age of twenty-five years.”;

(b) by deleting subsection (6), and substituting the following:

“ (6) A licence other than a provisional licence shall be valid for three years from the date of issue and may be renewed, upon payment of the appropriate fee for each renewal, by the Commissioner.

(7) An applicant for the renewal of a Firearm User’s Licence under this Act shall submit with his application—

(a) a certificate of competence issued by a licensed firearms instructor; and

(b) such other documents as may be prescribed by the Commissioner.”.

(8) A licence held by a person prior to the coming into operation of this Act shall continue to be valid after the commencement of this Act.”.

Section 21 amended **15.** The Act is amended by inserting after section 21A, the following new sections:

“Restrictions on Domestic violence offender holding Firearm User’s Licence. Act No. 27 of 1999”

21B. (1) Where the holder of a Firearm User’s Licence or a Firearm User’s (Employee’s) Certificate is convicted of an offence under the Domestic Violence Act, the Commissioner shall suspend his licence or certificate as the case may be for a period of five years from the date of conviction for such offence.

(2) A person who is convicted of a domestic violence offence under the Domestic Violence Act, is disqualified from holding a Firearm User’s Licence or a Firearm User’s (Employee’s) Certificate for a period of five years from the date of conviction.

Firearms
register

21c. The Commissioner shall establish and maintain a register, to be known as 'the Trinidad and Tobago Firearms Register', in which shall be kept, a record of—

- (a) every licence, registration certificate and permit that is issued, renewed or revoked by the Commissioner;
- (b) every application for a licence, registration certificate or permit or renewal thereof that is refused by the Commissioner;
- (c) every importation into or exportation from Trinidad and Tobago of a firearm and ammunition of which the Commissioner is informed under this Act;
- (d) every loss, finding, theft or destruction of a firearm and ammunition of which the Commissioner is informed under section 28; and
- (e) such other matters as may be prescribed.”.

16. Insert after section 26 the following new section:

“Database 26A. There shall be compiled and retained by the prescribed authority, a database of all licensed and, where possible, unlicensed firearms and ammunition located in Trinidad and Tobago.”

New section 26A
Inserted

17. Section 27 of the Act is amended by inserting after subsection (4), the following new subsection:

“ (4A) A search of a woman under subsection (4), shall be carried out only by a female member of the Police Service, the Department of Customs and Excise, the Immigration Department or the Defence Force.

Section 27 amended

Section 28 amended

18. Section 28 of the Act is amended—

(a) by inserting after subsection (1), the following new subsections:

“ (1A) The holder of a licence, certificate or permit in respect of any firearm or ammunition and any other person lawfully in possession of any firearm or ammunition by virtue of section 7(2) who loses such firearm or ammunition through negligence on his part commits an offence and is liable, on summary conviction, to a fine of five thousand dollars.

(1B) Every person who finds a firearm or ammunition shall, within twenty-four hours of finding such firearm or ammunition, deliver such firearm or ammunition to the police officer in charge of the police station nearest to the place at which he found the firearm or ammunition and shall give a written statement as to the time on which and the circumstances in which he found the firearm or ammunition.”;

(b) in subsection (2), by inserting after the word “(1)” the words “, and (1B)” and by deleting the words “five hundred” and substituting the words “five thousand”.

Section 29 amended

19. Section 29 of the Act is amended in subsection (2) by deleting the words “one” and “six months” and substituting the words “five” and “two years” respectively.”.

20. Section 30 of the Act is amended—

Section 30 amended

- (a) in subsection (1) by inserting before the words “A Justice of the Peace” the words “A Magistrate or” and by inserting after the words “about to be committed” the words “or there is a substantial risk to the safety of the public,”; and
- (b) by deleting subsection (3), and substituting the following new subsections:
 - “ (3) A police officer or other person referred to in subsection (1), may in carrying out the search on the premises or place—
 - (a) use or cause to be used any data processing system at the place to examine any data relating to arms and ammunition contained in or available to the system;
 - (b) reproduce any record relating to arms and ammunition or cause it to be reproduced from the data in the form of print-out or other intelligible output and remove the print-out or other output for examination or copying; and
 - (c) use or cause to be used any copying equipment at the place to make copies of any records, books, accounts or other document relating to arms and ammunition.
 - (4) Where in exercising the powers of a warrant under subregulation (3)(c), costs are incurred in respect of the copying equipment used, the

person immediately responsible for paying such cost, on proof of such expenditure or costs shall be reimbursed, by the State, all sums thereof.

(5) A person who hinders, molests or interferes with any police officer or other person referred to in subsections (1) [and (3)], whilst such police officer or person is doing anything that he is authorized to do under this section or prevents or attempts to prevent a police officer or other such person from doing any such thing commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for four years.”.

Section 31 amended

21. The Act is amended in section 31—

(a) in subsection (2)—

- (i) in paragraph (a)(i), by deleting the words “ten thousand dollars or to imprisonment for four years” and substituting the words “fifty thousand dollars or to imprisonment for ten years”;
- (ii) in paragraph (a)(ii), by deleting the word “ten” and substituting the word “twenty”;
- (iii) in paragraph (b)(i), by deleting the words “ten thousand dollars or to imprisonment for three years” and substituting the words “fifty thousand dollars or to imprisonment for eight years”; and
- (iv) in paragraph (b)(ii), by deleting the word “five” and substituting the word “fifteen”; and

(b) by inserting after subsection (3), the following new subsection:

“ (4) Where a firearm is imported under subsection (1), such firearm shall be marked by the manufacturer with the name and address of the manufacturer and the serial number of the firearm, for the purposes of identification and tracing.”.

22. Section 32(6) of the Act is amended by deleting Section 32 amended the words “four thousand dollars or to imprisonment for two years” and substituting the words “twenty-five thousand dollars or to imprisonment for five years.”.

23. The Act is amended in section 34 by deleting Section 34 amended subsection (3), and substituting the following new subsection:

“ (3) A person who commits an offence under this section is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for ten years and on conviction on indictment to a fine of one hundred and fifty thousand dollars and to imprisonment for fifteen years.”.

24. The Act is amended by repealing section 35 and Section 35 amended substituting the following new section:

“Controlled delivery 35. Evidence obtained by controlled delivery shall be admissible in a Court of law.”.

25. Section 36 of the Act is repealed and the following Section 36 repealed and replaced new section substituted:

“Regulations 36. The President may make Regulations for the better carrying out of this Act, and in particular for prescribing—
(a) the test for determining drunkenness for the purpose of section 13B;

- (b) provisions relating to the prescribed authority and the database of firearms and ammunition for the purpose of section 26A; and
- (c) any other thing required or permitted by this Act to be prescribed.”.

Section 40 amended

26. Section 40 of the Act is amended by—

- (a) deleting subsection (3) and substituting the following subsection:

“ (3) A person who holds a Firearm User’s Licence and has a firearm in his possession shall, when not carrying such firearm on his person ensure that it is safely stored out of the reach of children.”; and

- (b) inserting after subsection (5), the following new subsection:

“ (6) A person who fails to comply with subsection (1), (2) or (3), is liable on summary conviction to a fine of ten thousand dollars.”.

Schedule inserted

27. The Act is amended by inserting after section 41 the following new Schedule:

“SCHEDULE

[Section 7(1)(ja)]

- (i) Historic Matchlock;
- (ii) Flintlock;
- (iii) Wheel-Lock;
- (iv) Snaphaunce;
- (v) percussion weapons;
- (vi) old historic arms manufactured or readily available;
- (vii) deactivated firearms and deactivated weapons of war; and
- (viii) replica weapons with solid barrels intended solely for historical display.”.

Passed in the House of Representatives this 7th day of November, 2003.

D. DOLLY
Acting Clerk of the House

Passed in the Senate this 9th day of December, 2003.

N. JAGGASSAR
Acting Clerk of the Senate

Senate amendments agreed to by the House of Representatives this 16th day of January, 2004.

D. DOLLY
Acting Clerk of the House